

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Clarence T. Fox, Jr.,)
Petitioner,) C/A No. 8:11-1470-TMC
v.)
Warden Darlene Drew,)
Respondent.)

)

OPINION & ORDER

Petitioner, a federal prisoner proceeding *pro se*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., all pre-trial proceedings were referred to a Magistrate Judge. On August 9, 2011, Magistrate Judge Jacquelyn D. Austin, issued a Report and Recommendation ("Report") recommending the petition be dismissed without prejudice. (Dkt. #12). The Magistrate Judge provided Petitioner a notice advising him of his right to file objections to the Report. (Dkt. # 12 at 7). Petitioner filed objections to the Magistrate Judge's Report on September 6, 2011. (Dkt. # 20).

The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The Magistrate Judge recommended the petition be dismissed because the instant § 2241 Petition fails to satisfy the requirements of the savings clause of § 2255(e) so as to provide this Court with jurisdiction to hear it. The Court has carefully reviewed the Petitioner's objections, but finds them to be without merit.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court finds Petitioner's objections are without merit. Accordingly, the court adopts the Report and incorporates it herein. It is therefore **ORDERED** that the Petition is **DISMISSED** without prejudice.

To the extent that Petitioner requests a certificate of appealability from this Court, that certificate is **DENIED**.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

November 8, 2011
Greenville, South Carolina